

REMARKS

Applicant replies within two months to the Final Office Action dated March 4, 2010. Claims 1-3, 6-17, 19-22, 25-28, 30-36 and 39 are pending in the application and the Examiner rejects claims 1-3, 6-17, 19-22, 25-28, 30-36 and 39. Support for the amendments presented with this Reply may be found in the originally-filed specification, claims, and figures, for example, in paragraph 39 of the application. Applicant respectfully requests reconsideration of this application.

§ 112 Rejections

The Examiner rejects claims 16-22, 25, 26, and 39 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant presents amendments to the claims and respectfully requests withdrawal of these rejections.

§ 103(a) Rejections

The Examiner rejects claims 1-3, 6-16, 19-22, 26 and 39 under 35 U.S.C. 103(a) as being unpatentable over Kraml et al., U.S. Patent No. 6,141,683 (“Kraml”), in view of Aghera et al., U.S. Publication No. 2004/0098715 A1 (“Aghera”), and further in view of Kidder et al., U.S. Patent No. 6,983,362 (“Kidder”). Additionally, the Examiner rejects claims 17, 27, 28 and 31-36 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, in view of Kidder, and further in view of Aija et al., U.S. Patent No. 6,928,579 (“Aija”). In particular, the Examiner asserts that Kraml teaches the invention as claimed, where Aghera teaches updating software in a software defined radio device, and Kidder teaches automatically reverting from a version of the software to a different software version based on a particular detected error (Office Action p. 4-5).

Furthermore, the Examiner rejects claim 25 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, in view of Kidder, and further in view of Simionescu et al., U.S. Publication No. 2003/0084337 A1 (“Simionescu”). Moreover, the Examiner rejects claim 30 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, further in view of Kidder, further in view of Simionescu, and further in view of Aija. Applicant respectfully disagrees with these rejections, but amends certain claims (without prejudice or disclaimer) in order to further clarify the patentable aspects of the claims and to expedite prosecution.

The method described in Kraml includes a control center receiving indication that the software has crashed and then determining whether the software should be rebooted or whether a different version of the software should be initiated upon a reboot (Kraml, col. 7, ln. 26-42). Likewise, Kidder discloses reverting to an old configuration and application on any error or only for particular errors (Kidder, col. 31, ln. 38-41). For example, “The SMS (Software Management System) may cause the system to revert to the old configuration and application (i.e., automatic downgrade)” (Kidder, col. 31, ln. 39-41).


However, the cited references do not disclose or contemplate, alone or in combination, “automatically switching from said selected software application to a different version of said selected software application in response to a particular detected error, wherein *said different version is pre-selected by a system operator*” as recited in amended, independent claim 1 (emphasis added), and as similarly recited in independent claims 16, 27, and 39. For at least these reasons, Applicant respectfully requests withdrawal of the rejections of independent claims 1, 16, 27, and 39.

Furthermore, dependent claims 3, 6-15, 17, 19-22, 25-26, 28 and 30-36 variously depend from independent claims 1, 16, and 27. Applicant thus asserts that dependent claims 3, 6-15, 17, 19-22, 25-26, 28 and 30-36 are differentiated from the cited references for the reasons set forth above for differentiating independent claims 1, 16, and 27, in addition to their own unique features.

In view of the above remarks, Applicant respectfully requests withdrawal of all rejections of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: 5/4/10



David G. Barker
Reg. No. 58,581

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6376
Fax: 602-382-6070
Email: dbarker@swlaw.com